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12 behalf of herself and all others similarly situated

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12 MACKENZIE ANNE THOMA, a.k.a.
13 KENZIE ANNE, an individual and on
14 behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 VXN GROUP LLC, a Delaware limited
18 liability company; STRIKE 3 HOLDINGS,
19 LLC, a Delaware limited liability
20 company; GENERAL MEDIA SYSTEMS,
21 LLC, a Delaware limited liability
22 company; MIKE MILLER, an individual;
23 and DOES 1 through 100, inclusive,

24 Defendants.

CASE NO: 2:23-cv-04901-WLH
(AGRx)

*[Assigned for all purposes to the Hon.
Wesley L. Hsu]*

**PLAINTIFF'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF PLAINTIFF'S OPPOSITION TO
DEFENDANTS' SPECIAL MOTION
TO STRIKE**

HEARING INFORMATION

DATE: January 5, 2024
TIME: 1:30pm
DEPT: 9B

1 TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

2 1. In accordance with Federal Rule of Evidence 201, Plaintiff Mackenzie
3 Anne Thoma, through undersigned counsel, hereby respectfully requests that the
4 Court, in conjunction with its consideration of Plaintiff's Opposition to Defendant's
5 Special Motion to Strike, take judicial notice of the document described below and
6 attached as **Exhibit 1 and Exhibit 2** to this Request for Judicial Notice.

7 2. Federal Rule of Evidence Section 201 ("Rule 201") allows a court to
8 take judicial notice of facts that are "not subject to reasonable dispute" because they
9 are either (1) "generally known within the trial court's territorial jurisdiction;" or (2)
10 "can be accurately and readily determined from sources whose accuracy cannot
11 reasonably be questioned." Fed. R. Evid. § 201(b). The Court "must take judicial
12 notice if a party request it and the court is supplied with the necessary information."
13 Fed. R. Evid. 201(c)(2).

14 3. Court orders and filings are types of documents that are properly
15 subject to judicial notice under Rule 201. *See, e.g., Helm v. Alderwoods Group,*
16 *Inc.*, 696 F. Supp. 2d 1057, 1062 n.3 (N.D. Cal. 2009) (taking judicial notice of
17 complaint filed in another lawsuit); *Neilson v. Union Bank of Cal.*, 290 F. Supp. 2d
18 1101, 1112-14 (C.D. Cal. 2003) (granting judicial notice of court orders and civil
19 minutes, including the "existence and legal effect of the documents"). *See also Bias*
20 *v. Moynihan*, 508 F.3d 1212, 1225 (9th Cir. 2007) (district court "may take notice of
21 proceedings in other courts, both within and without the federal judicial system, if
22 those proceedings have a direct relation to matters at issue"); 646, 651-52 (9th Cir.
23 1988) (judicial notice taken of complaints in related actions); *E. & J. Gallo Winery*
24 *v. Encana Energy Servs., Inc.*, 2005 WL 2435900, at *6 (E.D. Cal. Sept. 30, 2005)
25 ("A district court may take judicial notice pursuant to Rule 201 of the Federal Rules
26 of Evidence . . . of orders or decisions or proceedings of any federal or state court.")
27 (internal citation omitted).

28 4. Information found on publicly accessible websites are subject to

1 judicial notice. *See e.g. Hodges v. King's Hawaiian Bakery W., Inc.*, No. 21-CV-
 2 04541-PJH, 2021 WL 5178826, at 3 (N.D. Cal. Nov. 8, 2021) (“Websites and their
 3 contents may be proper subjects for judicial notice”); *Wible v. Aetna Life Ins. Co.*,
 4 374 F. Supp. 2d 956, 965 (C.D. Cal. 2005) (recognizing that “websites and their
 5 contents may be proper subjects for judicial notice” where party “supplied the court
 6 with hard copies of the actual web pages of which they sought to have the court take
 7 judicial notice”); *Spy Optic, Inc. v. Alibaba.Com, Inc.*, 163 F. Supp. 3d 755 at 762-
 8 763 (C.D. Cal. 2015) (“it is not uncommon for courts to take judicial notice of
 9 factual information found on the world wide web.”)

10 5. Based on the above, the Court should take judicial notice of the
 11 following documents.

12 6. The Memorandum Opinion filed by the clerk of the Honorable Royce
 13 C. Lamberth of the United States District Court For The District of Columbia, on
 14 November 16, 2018 in the action entitled *Strike 3 Holdings, LLC v. John Doe*
 15 *subscriber assigned IP address 73.180.154.14*, Case Number 18-1425 and the LA
 16 Times Article entitled “Column: This porn company makes millions by shaming
 17 porn consumers.”

18 7. A true and correct copy of the Memorandum Opinion is attached hereto
 19 as **Exhibit 1**.

20 8. A true and correct copy of the article published by the LA Times is
 21 attached hereto as **Exhibit 2**.

22
 23 Dated: December 15, 2023

BIBIYAN LAW GROUP, P.C.

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 25 BY: /s/ Sarah H. Cohen

SARAH H. COHEN

26 Attorneys for Plaintiff MACKENZIE ANNE
 27 THOMA, and individual and on behalf of all
 28 other similarly situated